



DEPARTMENT OF CONSERVATION
STATE OF CALIFORNIA

NOTICE

August 25, 2004

OFFICE OF MINE
RECLAMATION

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TO: ALL LEAD AGENCIES

SUBJECT: MODIFICATION OR RELEASE OF FINANCIAL
ASSURANCES; NEWLY ADOPTED REGULATION

The purpose of this letter is to alert you to an addition to the California Code of Regulations (CCR), Section 3805.5, and to ask your cooperation in implementing this change. Section 3805.5 was added to the CCR by the State Mining and Geology Board and became effective in May 2004. The new provision affects lead agencies procedures for releasing or otherwise modifying a financial assurance mechanism covering active mines within their jurisdiction. You may review the text of this new addition by visiting our website at the link below:

<http://www.consrv.ca.gov/OMR/smara/index.htm>

The new provision clarifies and provides more detail to what is required in Section 2773.1 of the Public Resources Code relating to financial assurances for active mining operations. Lead agencies continue to have primary responsibility for approving a modification or release of a financial assurance. Any change to a financial assurance, whether a modification or a release, requires substantiation based on an inspection of the mining operation. This section further requires that the Department of Conservation (Department) give concurrence with the action of the lead agency for any modification or release to take place. In order for the Department to give this concurrence the following must be provided by the lead agency:

- An inspection report;
- A revised financial assurance cost estimate;
- Complete documentation supporting the revised cost estimate;
- A written statement that the mined land has either been fully reclaimed or remains subject to a financial assurance as modified.

The Department will have 45 days in which to review this documentation. The Department will either concur with the lead agency or will point out aspects of the mining operation that remain to be reclaimed or are not in compliance with the Surface Mining and Reclamation Act (SMARA) of 1975, or will list what it believes to be inadequacies in the calculations on which the financial assurance determinations have been made. If the mining operation is found to be out of compliance with SMARA corrective actions must be completed before the Department will provide concurrence. Unless the lead agency receives concurrence from the Department that there are no outstanding reclamation liabilities, a financial assurance may not be released. The Department will make every effort to expeditiously address each notification from a lead agency regarding the release or modification of a financial assurance.

The Department's Office of Mine Reclamation will provide technical assistance to lead agencies in implementing this new section. The first level of assistance is available on our website, incorporating answers to technical questions you may already have. Furthermore, this website will help you develop and provide suggested forms and checklists for use by lead agencies to make your job easier. Please refer to our website at the link provided below for a copy of this Notice and check back periodically for updates to questions and answers to technical problems.

http://www.consrv.ca.gov/OMR/official_notices/index.htm

Please share this notice, or the information contained in it, with others that you believe may be impacted by this change and contact this office at (916) 323-9198 if you have any questions or concerns regarding a specific financial assurance situation.